



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200951040

SEP 21 2009

Uniform issue List 408.03-00

SE: T: EP: RA: T1

Taxpayer A = *****
IRA A = *****
Company A = *****
Security A = *****
Company B = *****
Amount A = \$*****

Dear *****,

This letter is in response to your ruling request dated February 15, 2008, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

On November 15, 200 , Taxpayer A withdrew Amount A from IRA A and purchased Security A issued by Company B with the intention of depositing Security A into IRA A. Taxpayer A made it known to Company A and Company B that Security A was to be issued in the name of and deposited into IRA A. However, after the transaction, Company B issued Security A in the name of IRA A but failed to deposit Security A into IRA A within the 60-day rollover period.

Company B admitted that the timely deposit of Security A into IRA A was the result of their failure and misunderstanding.

Based on the above facts and representations, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount A from IRA A because an error on the part of Company B prevented Security A from being timely deposited into IRA A even though it was issued in the name of IRA A.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if —

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or
- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted on behalf of Taxpayer A is consistent with the assertion that the failure to accomplish a timely rollover was caused by the Company B and failure to waive the 60-day requirement would be against equity or good conscience.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A from IRA A. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to roll over no more than Amount A to an eligible retirement plan such as an IRA provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution. Provided no more than Amount A is contributed to an eligible retirement plan, such as an IRA, within 60 days from the issuance of this ruling letter, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

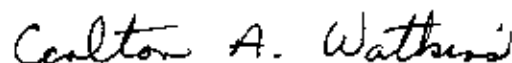
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable thereto.

This ruling does not authorize the rollover of amounts that are required to be distributed pursuant to section 401(a)(9) of the Code.

This letter only applies to the taxpayer named above. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact ***** (Identification No. *****) at *****. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437